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On March 24, U.S.-led NATO forces launched cruise missiles and bombs at targets in Yugoslavia, “plunging America into a military conflict that President Clinton said was necessary to stop ethnic cleansing and bring stability to Eastern Europe,” lead stories in the press reported. In a televised address, Clinton explained that by bombing Yugoslavia, “we are upholding our values, protecting our interests, and advancing the cause of peace.”

In the preceding year, according to Western sources, about 2,000 people had been killed in the Yugoslav province of Kosovo and there were several hundred thousand internal refugees. The humanitarian catastrophe was overwhelmingly attributable to Yugoslav military and police forces, the main victims being ethnic Albanian Kosovars, commonly said to constitute about 90 percent of the population. After three days of bombing, according to the UN High Commissioner for Refugees, several thousand refugees had been expelled to Albania and Macedonia, the two neighboring countries. Refugees reported that the terror had reached the capital city of Pristina, largely spared before, and provided credible accounts of large-scale destruction of villages, assassinations,

and a radical increase in generation of refugees, perhaps an effort to expel a good part of the Albanian population. Within two weeks the flood of refugees had reached some 350,000, mostly from the southern sections of Kosovo adjoining Macedonia and Albania, while unknown numbers of Serbs fled north to Serbia to escape the increased violence from the air and on the ground.

On March 27, U.S.-NATO Commanding General Wesley Clark declared that it was “entirely predictable” that Serbian terror and violence would intensify after the NATO bombing. On the same day, State Department spokesperson James Rubin said that “The United States is extremely alarmed by reports of an escalating pattern of Serbian attacks on Kosovar Albanian civilians,” now attributed in large part to paramilitary forces mobilized after the bombing. General Clark’s phrase “entirely predictable” is an overstatement. Nothing is “entirely predictable,” surely not the effects of extreme violence. But he is surely correct in implying that what happened at once was highly likely. As observed by Carnes Lord of the Fletcher School of Law and Diplomacy, formerly a Bush Administration national security adviser, “enemies often react when shot at,” and “though Western officials continue to deny it, there can be little doubt that the bombing campaign has provided both motive and opportunity for a wider and more savage Serbian operation than what was first envisioned.”

In the preceding months, the threat of NATO bombing—again, predictably—was followed by an increase in atrocities. The withdrawal of international observers, sharply condemned by the Serb Parliament, predictably had the same consequence. The bombing was then undertaken under the rational expectation that killing and refugee generation would escalate as a result, as indeed happened, even if the scale may have come as a surprise to some, though apparently not the commanding general.

any other. Human rights, I believe, will have to be vindicated, and other injustices remedied, by other, peaceful means, not by opening the door to aggression and destroying the principal advance in international law, the outlawing of war and the prohibition of force.”

Recognized principles of international law and world order, treaty obligations, decisions by the World Court, considered pronouncements by the most respected commentators these do not automatically yield solutions to particular problems. Each has to be considered on its merits. For those who do not adopt the standards of Saddam Hussein, there is a heavy burden of proof to meet in undertaking the threat or use of force in violation of the principles of international order. Perhaps the burden can be met, but that has to be shown, not merely proclaimed with passionate rhetoric. The consequences of such violations have to be assessed carefully—in particular, what we take to be “predictable.” For those who are minimally serious, the reasons for the actions also have to be assessed on rational grounds, with attention to historical fact and the documentary record, not simply by adulation of our leaders and their “moral compass.”

Under Tito, Kosovars had had a considerable measure of self-rule. So matters remained until 1989, when Kosovo’s autonomy was rescinded by Slobodan Milosevic, who established direct Serbian rule and imposed “a Serbian version of Apartheid,” in the words of former U.S. government specialist on the Balkans James Hooper, no dove: he advocates direct NATO invasion of Kosovo. The Kosovars “confounded the international community,” Hooper continues, “by eschewing a war of national liberation, embracing instead the non-violent approach espoused by leading Kosovo intellectual Ibrahim Rugova and constructing a parallel civil society,” an impressive achievement, for which they were rewarded by “polite audiences and rhetorical encouragement from Western governments.” The nonviolent strategy “lost its credibility” at the Dayton accords in November 1995, Hooper observes. At Dayton, the U.S. effectively partitioned Bosnia-Herzegovina between an eventual greater Croatia and greater Serbia, after having roughly equalized the balance of terror by providing arms and training for the forces of Croatian dictator Tudjman and supporting his violent expulsion of Serbians from Krajina and elsewhere. With the sides more or less balanced, and exhausted, the U.S. took over, displacing the Europeans who had been assigned the dirty work much to their annoyance. “In deference to Milosevic,” Hooper writes, the U.S. “excluded Kosovo Albanian delegates” from the Dayton negotiations and “avoided discussion of the Kosovo problem.” “The reward for nonviolence was international neglect”; more accurately, U.S. neglect.

Recognition that the U.S. understands only force led to “the rise of the guerrilla Kosovo Liberation Army (KLA) and expansion of popular support for an armed independence struggle.” By February 1998, KLA attacks against Serbian police stations led to a “Serbian crackdown” and retaliation against civilians, another standard pattern: Israeli atrocities in Lebanon, particularly under Nobel Peace laureate Shimon Peres, are or should

be a familiar example, though one that is not entirely appropriate. These Israeli atrocities are typically in response to attacks on its military forces occupying foreign territory in violation of longstanding Security orders to withdraw. Many Israeli attacks are not retaliatory at all, including the 1982 invasion that devastated much of Lebanon and left 20,000 civilians dead (a different story is preferred in U.S. commentary, though the truth is familiar in Israel). We need scarcely imagine how the U.S. would respond to attacks on police stations by a guerrilla force with foreign bases and supplies.

Fighting in Kosovo escalated, the scale of atrocities corresponding roughly to the resources of violence. An October 1998 cease-fire made possible the deployment of 2,000 European monitors. Breakdown of U.S.-Milosevic negotiations led to renewed fighting, which increased with the threat of NATO bombing and the withdrawal of the monitors, again as predicted. Officials of the UN refugee agency and Catholic Relief Services had warned that the threat of bombing “would imperil the lives of tens of thousands of refugees believed to be hiding in the woods,” predicting “tragic” consequences if “NATO made it impossible for us to be here.”

Atrocities then sharply escalated as the late March bombing provided “motive and opportunity,” as was surely “predictable,” if not “entirely” so.

The bombing was undertaken, under U.S. initiative, after Milosevic had refused to accept a U.S. ultimatum, the Rambouillet agreement of the NATO powers in February. There were disagreements within NATO, captured in a *New York Times* headline that reads: “Trickiest Divides Are Among Big Powers at Kosovo Talks.” One problem had to do with deployment of NATO peacekeepers. The European powers wanted to ask the Security Council to authorize the deployment, in accord with treaty obligations and international law. Washington, however, refused to allow the “neuralgic word ‘authorize,’” the *New York Times* reported, though it did finally

accelerating the atrocities, [President Clinton] replied, ‘absolutely not’” (Adam Clymer). He reiterated that stand in his April 1 speech at Norfolk: “Had we not acted, the Serbian offensive would have been carried out with impunity.” The following day, Pentagon spokesperson Kenneth Bacon announced that the opposite was true: “I don’t think anyone could have foreseen the breadth of this brutality,” the first acknowledgment by the Administration that “it was not fully prepared for the crisis,” the press reported a crisis that was “entirely predictable,” the Commanding General had informed the press a week earlier. From the start, reports from the scene were that “the Administration had been caught off guard” by the Serbian military reaction (Jane Perlez, and many others).

The right of “humanitarian intervention” is likely to be more frequently invoked in coming years maybe with justification, maybe not now that Cold War pretexts have lost their efficacy. In such an era, it may be worthwhile to pay attention to the views of highly respected commentators—not to speak of the World Court, which ruled on the matter of intervention and “humanitarian aid” in a decision rejected by the United States, its essentials not even reported.

In the scholarly disciplines of international affairs and international law it would be hard to find more respected voices than Hedley Bull or Louis Henkin. Bull warned 15 years ago that “Particular states or groups of states that set themselves up as the authoritative judges of the world common good, in disregard of the views of others, are in fact a menace to international order, and thus to effective action in this field.” Henkin, in a standard work on world order, writes that the “pressures eroding the prohibition on the use of force are deplorable, and the arguments to legitimize the use of force in those circumstances are unpersuasive and dangerous...Violations of human rights are indeed all too common, and if it were permissible to remedy them by external use of force, there would be no law to forbid the use of force by almost any state against almost

of humane rationality. And those who remind us of the “distaste for war or for intervention in the affairs of others” that is “our inherent weakness,” of our dismay over the “repeated violations of norms and rules established by international treaty, human rights conventions” (historian Tony Judt). We are to consider Kosovo as “A New Collision of East and West,” a *Times* think piece is headlined, a clear illustration of Samuel Huntington’s “Clash of Civilizations”: “a democratic West, its humanitarian instincts repelled by the barbarous inhumanity of Orthodox Serbs,” all of this “clear to Americans” but not to others, a fact that Americans fail to comprehend (Huntington, interview).

Or we may listen to the inspiring words of Secretary of Defense William Cohen, introducing the president at Norfolk Naval Air Station. He opened by quoting Theodore Roosevelt, speaking “at the dawn of this century, as America was awakening into its new place in the world.” President Roosevelt said, “Unless you’re willing to fight for great ideals, those ideals will vanish,” and “today, at the dawn of the next century, we’re joined by President Bill Clinton” who understands as well as Teddy Roosevelt that “standing on the sidelines...as a witness to the unspeakable horror that was about to take place, that would in fact affect the peace and stability of NATO countries, was simply unacceptable.” One has to wonder what must pass through the mind of someone invoking this famous racist fanatic and raving jingoist as a model of American values, along with the events that illustrated his cherished “great ideals” as he spoke: the slaughter of hundreds of thousands of Filipinos who had sought liberation from Spain, shortly after Roosevelt’s contribution to preventing Cubans from achieving the same goal.

Wiser commentators will wait until Washington settles on an official story. After two weeks of bombing, the story is that they both knew and didn’t know that a catastrophe would follow. On March 28, “when a reporter asked if the bombing was

permit “endorse.” The Clinton administration “was sticking to its stand that NATO should be able to act independently of the United Nations.”

The discord within NATO continued. Apart from Britain (by now, about as much of an independent actor as the Ukraine was in pre-Gorbachev years), NATO countries were skeptical of Washington’s preference for force, and annoyed by Secretary of State Albright’s “saber-rattling,” which they regarded as “unhelpful when negotiations were at such a sensitive stage,” though “U.S. officials were unapologetic about the hard line.”

Turning from generally uncontested fact to speculation, we may ask why events proceeded as they did, focusing on the decisions of U.S. planners—the factor that must be our primary concern on elementary moral grounds, and that is a leading if not decisive factor on grounds of equally elementary considerations of power.

We may note at first that the dismissal of Kosovar democrats “in deference to Milosevic” is hardly surprising. To mention another example, after Saddam Hussein’s repeated gassing of Kurds in 1988, in deference to its friend and ally the U.S. barred official contacts with Kurdish leaders and Iraqi democratic dissidents, who were largely excluded from the media as well. The official ban was renewed immediately after the Gulf war, in March 1991, when Saddam was tacitly authorized to conduct a massacre of rebelling Shi’ites in the south and then Kurds in the north. The massacre proceeded under the steely gaze of Stormin’ Norman Schwartzkopf, who explained that he was “suckered” by Saddam, not anticipating that Saddam might carry out military actions with the military helicopters he was authorized by Washington to use. The Bush administration explained that support for Saddam was necessary to preserve “stability,” and its preference for a military dictatorship that would rule Iraq with an “iron fist” just as Saddam had done was sagely endorsed by respected U.S. commentators.

Tacitly acknowledging past policy, Secretary of State Albright announced in December 1998 that “we have come to the determination that the Iraqi people would benefit if they had a government that really represented them.” A few months earlier, on May 20, Albright had informed Indonesian President Suharto that he was no longer “our kind of guy,” having lost control and disobeyed IMF orders, so that he must resign and provide for “a democratic transition.” A few hours later, Suharto transferred formal authority to his hand-picked vice-president. We now celebrate the May 1999 elections in Indonesia, hailed by Washington and the press as the first democratic elections in 40 years—but without a reminder of the major U.S. clandestine military operation 40 years ago that brought Indonesian democracy to an end, undertaken in large measure because the democratic system was unacceptably open, even allowing participation of the left.

We need not tarry on the plausibility of Washington’s discovery of the merits of democracy in the past few months; the fact that the words can be articulated, eliciting no comment, is informative enough. In any event, there is no reason to be surprised at the disdain for non-violent democratic forces in Kosovo; or at the fact that the bombing was undertaken with the likely prospect that it would undermine a courageous and growing democratic movement in Belgrade, now probably demolished as Serbs are “unified from heaven—but by the bombs, not by God,” in the words of Aleksa Djilas, the historian son of Yugoslav dissident Milovan Djilas. “The bombing has jeopardized the lives of more than 10 million people and set back the fledgling forces of democracy in Kosovo and Serbia,” having “blasted...[its] germinating seeds and insured that they will not sprout again for a very long time,” according to Serbian dissident Veran Matic, editor in chief of the independent station Radio B-92 (now banned). Former *Boston Globe* editor Randolph Ryan, who has been working for years in the Balkans and living in Belgrade, writes that “Now, thanks to NATO, Serbia has

A standard argument is that we had to do something: we could not simply stand by as atrocities continue. The argument is so absurd that it is rather surprising to hear it voiced. Suppose you see a crime in the streets, and feel that you can’t just stand by silently, so you pick up an assault rifle and kill everyone involved: criminal, victim, bystanders. Are we to understand that to be the rational and moral response?

One choice, always available, is to follow the Hippocratic principle: “First, do no harm.” If you can think of no way to adhere to that elementary principle, then do nothing; at least that is preferable to causing harm. But there are always other ways that can be considered. Diplomacy and negotiations are never at an end. That was true right before the bombing, when the Serb Parliament, responding to Clinton’s ultimatum, called for negotiations over an “international presence in Kosovo immediately after the signing of an accord for self-administration in Kosovo which will be accepted by all national communities” living in the province, reported on wire services worldwide but scarcely noted here. Just what that meant we cannot know, since the two warrior states preferred to reject the diplomatic path in favor of violence.

Another argument, if one can call it that, has been advanced most prominently by Henry Kissinger. He believes that intervention was a mistake (“open-ended,” quagmire, etc.). That aside, it is futile. “Through the centuries, these conflicts [in the Balkans] have been fought with unparalleled ferocity because none of the populations has any experience with and essentially no belief in Western concepts of toleration.” At last we understand why Europeans have treated each other with such gentle solicitude “through the centuries,” and have tried so hard over many centuries to bring to others their message of non-violence, toleration, and loving kindness.

One can always count on Kissinger for some comic relief, though in reality, he is not alone. He is joined by those who ponder “Balkan logic” as contrasted with the Western record

course. In the eyes of much of the world probably most of the world, he suggests the U.S. is “becoming the rogue superpower,” considered “the single greatest external threat to their societies.” Realist “international relations theory,” he argues, predicts that coalitions may arise to counterbalance the rogue superpower. On pragmatic grounds, then, the stance should be reconsidered. Americans who prefer a different image of their society might have other grounds for concern over these tendencies, but they are probably of little concern to planners, with their narrower focus and immersion in ideology.

Where does that leave the question of what to do in Kosovo? It leaves it unanswered. The U.S. has chosen a course of action which, as it explicitly recognizes, escalates atrocities and violence; a course that strikes yet another blow against the regime of international order, which does offer the weak at least some limited protection from predatory states; a course that undermines, perhaps destroys, promising democratic developments within Yugoslavia, probably Macedonia as well. As for the longer term, consequences are unpredictable.

One plausible observation is that “every bomb that falls on Serbia and every ethnic killing in Kosovo suggests that it will scarcely be possible for Serbs and Albanians to live beside each other in some sort of peace” (*Financial Times*). Other possible long-term outcomes are not pleasant to contemplate. The resort to violence has, again predictably, narrowed the options. Perhaps the least ugly that remains is an eventual partition of Kosovo, with Serbia taking the northern areas that are rich in resources and have the main historical monuments, and the southern sector becoming a NATO protectorate where some Albanians can live in misery. Another possibility is that with much of the population gone, the U.S. might turn to the Carthaginian solution. If that happens, it would again be nothing new, as large areas of Indochina can testify.

overnight become a totalitarian state in a frenzy of wartime mobilization,” as NATO must have expected, just as it “had to know that Milosevic would take immediate revenge by redoubling his attacks in Kosovo,” which NATO would have no way to stop.

As to what planners “envisioned,” Carnes Lord’s confidence is hard to share. If the documentary record of past actions is any guide, planners probably were doing what comes naturally to those with a strong card—in this case violence. Namely, play it, and then see what happens.

With the basic facts in mind, one may speculate about how Washington’s decisions were made. Turbulence in the Balkans qualifies as a “humanitarian crisis,” in the technical sense: it might harm the interests of rich and privileged people, unlike slaughters in Sierra Leone or Angola, or crimes we support or conduct ourselves. The question, then, is how to control the authentic crisis. The U.S. will not tolerate the institutions of world order, so the problems have to be handled by NATO, which the U.S. pretty much dominates. The divisions within NATO are understandable: violence is Washington’s strong card. It is necessary to guarantee the “credibility of NATO”—meaning, of U.S. violence: others must have proper fear of the global hegemon. “One unappealing aspect of nearly any alternative” to bombing, Barton Gellman observed in a *Washington Post* review of “the events that led to the confrontation in Kosovo,” “was the humiliation of NATO and the United States.” National Security Adviser Samuel Berger “listed among the principal purposes of bombing ‘to demonstrate that NATO is serious’.” A European diplomat concurred: “Inaction would have involved ‘a major cost in credibility, particularly at this time as we approach the NATO summit in celebration of its fiftieth anniversary’.” “To walk away now would destroy NATO’s credibility,” Prime Minister Tony Blair informed Parliament. Blair is not concerned with the credibility of Italy or

Belgium, and understands “credibility” in the manner of any Mafia Don.

Violence may fail, but planners can be confident that there is always more in reserve. Side benefits include an escalation of arms production and sales—the cover for the massive state role in the high tech economy for years. Just as bombing unites Serbs behind Milosevic, it unites Americans behind Our Leaders. These are standard effects of violence; they may not last for long, but planning is for the short term.

The Issues

There are two fundamental issues: (1) What are the accepted and applicable “rules of world order”? (2) How do these or other considerations apply in the case of Kosovo?

(1) There is a regime of international law and international order, binding on all states, based on the UN Charter and subsequent resolutions and World Court decisions. In brief, the threat or use of force is banned unless explicitly authorized by the Security Council after it has determined that peaceful means have failed, or in self-defense against “armed attack” (a narrow concept) until the Security Council acts.

There is, of course, more to say. Thus, there is at least a tension, if not an outright contradiction, between the rules of world order laid down in the UN Charter and the rights articulated in the Universal Declaration of Human Rights (UD), a second pillar of the world order established under U.S. initiative after World War II. The Charter bans force violating state sovereignty; the UD guarantees the rights of individuals against oppressive states. The issue of “humanitarian intervention” arises from this tension. It is the right of “humanitarian intervention” that is claimed by the U.S./NATO in Kosovo, with the general support of editorial opinion and news reports.

The question was addressed at once in a *New York Times* report headed: “Legal Scholars Support Case for Using Force.” One example is offered: Allen Gerson, former counsel to the

the American Society for International Law that a situation in which our country’s “power, position, and prestige” are involved cannot be treated as a “legal issue.”

The main innovation of the Reagan-Clinton years is that defiance of international law and solemn obligations has become entirely open. It has also been backed with interesting explanations, which would be on the front pages, and prominent in the school and university curriculum, if honesty and human consequences were considered significant values. The highest authorities explained that international law and agencies had become irrelevant because they no longer follow U.S. orders, as they did in the early postwar years, when U.S. power was overwhelming. When the World Court was considering what it later condemned as Washington’s “unlawful use of force” against Nicaragua, Secretary of State George Shultz derided those who advocate “utopian, legalistic means like outside mediation, the United Nations, and the World Court, while ignoring the power element of the equation.” Clear and forthright, and by no means original. State Department Legal Adviser Abraham Sofaer explained that members of the UN can no longer “be counted on to share our view,” and the “majority often opposes the United States on important international questions,” so we must “reserve to ourselves the power to determine” how we will act.

One can follow standard practice and ignore “custom and practice,” or dismiss it on some absurd grounds (“change of course,” “Cold War,” and other familiar pretexts). Or we can take custom, practice, and explicit doctrine seriously, departing from respectable norms but at least opening the possibility of understanding what is happening in the world.

While the Reaganites broke new ground, under Clinton the defiance of world order has become so extreme as to be of concern even to hawkish policy analysts. In the current issue of the leading establishment journal, *Foreign Affairs*, Samuel Huntington warns that Washington is treading a dangerous

Again, the same lessons.

Despite the desperate efforts of ideologues to prove that circles are square, there is no serious doubt that the NATO bombings further undermine what remains of the fragile structure of international law. The U.S. made that clear in the debates that led to the NATO decision, as already discussed. Today, the more closely one approaches the conflicted region, the greater the opposition to Washington's insistence on force, even within NATO (Greece and Italy). Again, that is not an unusual phenomenon: another current example is the U.S./UK bombing of Iraq, undertaken in December with unusually brazen gestures of contempt for the Security Council even the timing, coinciding with an emergency session to deal with the crisis. Still another illustration, minor in context, is the destruction of half the pharmaceutical production of a small African country a few months earlier, another event that does not indicate that the "moral compass" is straying from righteousness, though comparable destruction of U.S. facilities by Islamic terrorists might evoke a slightly different reaction. It is unnecessary to emphasize that there is a far more extensive record that would be prominently reviewed right now if facts were considered relevant to determining "custom and practice."

It could be argued, rather plausibly, that further demolition of the rules of world order is by now of no significance, as in the late 1930s. The contempt of the world's leading power for the framework of world order has become so extreme that there is little left to discuss. A review of the internal documentary record demonstrates that the stance traces back to the earliest days, even to the first memorandum of the newly-formed National Security Council in 1947. During the Kennedy years, the stance began to gain overt expression, as, for example, when the highly respected statesperson and Kennedy adviser Dean Acheson justified the blockade of Cuba in 1962 by informing

U.S. mission to the UN. Two other legal scholars are cited. One, Ted Galen Carpenter, "scoffed at the Administration argument" and dismissed the alleged right of intervention. The third is Jack Goldsmith, a specialist on international law at Chicago Law school. He says that critics of the NATO bombing "have a pretty good legal argument," but "many people think [an exception for humanitarian intervention] does exist as a matter of custom and practice." That summarizes the evidence offered to justify the favored conclusion stated in the headline.

Goldsmith's observation is reasonable, at least if we agree that facts are relevant to the determination of "custom and practice." We may also bear in mind a truism: the right of humanitarian intervention, if it exists, is premised on the "good faith" of those intervening, and that assumption is based not on their rhetoric but on their record, in particular their record of adherence to the principles of international law, World Court decisions, and so on. That is indeed a truism, at least with regard to others. Consider, for example, Iranian offers to intervene in Bosnia to prevent massacres at a time when the West would not do so. These were dismissed with ridicule (in fact, generally ignored); if there was a reason beyond subordination to power, it was because Iranian good faith could not be assumed. A rational person then asks obvious questions: is the Iranian record of intervention and terror worse than that of the U.S.? And other questions, for example: How should we assess the "good faith" of the only country to have vetoed a Security Council resolution calling on all states to obey international law? What about its historical record? Unless such questions are prominent on the agenda of discourse, an honest person will dismiss it as mere allegiance to doctrine. A useful exercise is to determine how much of the literature—media or other—survives such elementary conditions as these.

(2) When the decision was made to bomb, there had been a serious humanitarian crisis in Kosovo for a year. In such cases, outsiders have three choices:

- (I) try to escalate the catastrophe
- (II) do nothing
- (III) try to mitigate the catastrophe

The choices are illustrated by other contemporary cases. Let's keep to a few of approximately the same scale, and ask where Kosovo fits into the pattern.

(A) Colombia. In Colombia, according to State Department estimates, the annual level of political killing by the government and its paramilitary associates is about at the level of Kosovo, and refugee flight primarily from their atrocities is well over a million, another 300,000 last year. Colombia has been the leading Western hemisphere recipient of U.S. arms and training as violence increased through the 1990s, and that assistance is now increasing, under a "drug war" pretext dismissed by almost all serious observers. The Clinton administration was particularly enthusiastic in its praise for President Gaviria, whose tenure in office was responsible for "appalling levels of violence," according to human rights organizations, even surpassing his predecessors. Details are readily available.

In this case, the U.S. reaction is (I): escalate the atrocities.

(B) Turkey. For years, Turkish repression of Kurds has been a major scandal. It peaked in the 1990s; one index is the flight of over a million Kurds from the countryside to the unofficial Kurdish capital Diyarbakir from 1990 to 1994, as the Turkish army was devastating the countryside. Two million were left homeless according to the Turkish State Minister for Human Rights, a result of "state terrorism" in part, he acknowledged. "Mystery killings" of Kurds (assumed to be death squad killings) alone amounted to 3,200 in 1993 and 1994, along with torture, destruction of thousands of villages, bombing with napalm, and an unknown number of casualties, generally estimated in the tens of thousands; no one was counting. The killings are attributed to Kurdish terror in Turkish propaganda, generally adopted in the U.S. as well. Presumably Serbian propaganda follows the same practice. 1994 marked two records

ing "humanitarian interventions," in the post-UN Charter period.

In that period, perhaps the most compelling example of (III) is the Vietnamese invasion of Cambodia in December 1978, terminating Pol Pot's atrocities, which were then peaking. Vietnam pleaded the right of self-defense against armed attack, one of the few post-Charter examples when the plea is plausible: the Khmer Rouge regime (Democratic Kampuchea, DK) was carrying out murderous attacks against Vietnam in border areas. The U.S. reaction is instructive. The press condemned the "Prussians" of Asia for their outrageous violation of international law. They were harshly punished for the crime of having ended Pol Pot's slaughters, first by a (U.S.-backed) Chinese invasion, then by U.S. imposition of extremely harsh sanctions. The U.S. recognized the expelled DK as the official government of Cambodia, because of its "continuity" with the Pol Pot regime, the State Department explained. Not too subtly, the U.S. supported the Khmer Rouge in its continuing attacks in Cambodia. The example tells us more about the "custom and practice" that underlies "the emerging legal norms of humanitarian intervention."

Another illustration of (III) is India's invasion of East Pakistan in 1971, which terminated an enormous massacre and refugee flight (over ten million, according to estimates at the time). The U.S. condemned India for aggression; Kissinger was particularly infuriated by India's action, in part it seems because it was interfering with a carefully staged secret trip to China. Perhaps this is one of the examples that historian John Lewis Gaddis had in mind in his fawning review of the latest volume of Kissinger's memoirs, when he reports admiringly that Kissinger "acknowledges here, more clearly than in the past, the influence of his upbringing in Nazi Germany, the examples set by his parents and the consequent impossibility, for him, of operating outside a moral framework." The logic is overpowering, as are the illustrations, too well-known to record.

years, but “we think the price is worth it.” Current estimates remain about 5,000 children killed a month, and the price is still “worth it.” These and other examples might be kept in mind when we read admiring accounts of how the “moral compass” of the Clinton administration is at last functioning properly, in Kosovo (Columbia University professor of preventive diplomacy David Phillips).

Kosovo is another illustration of (I): act in such a way as to escalate the violence, with exactly that expectation.

To find examples illustrating (III) is all too easy, at least if we keep to official rhetoric. The most extensive recent academic study of “humanitarian intervention” is by George Washington University law professor, Sean Murphy. He reviews the record after the Kellogg-Briand pact of 1928 which outlawed war, and then after the UN Charter, which strengthened and articulated these provisions. In the first phase, he writes, the most prominent examples of “humanitarian intervention” were Japan’s attack on Manchuria, Mussolini’s invasion of Ethiopia, and Hitler’s occupation of parts of Czechoslovakia, all accompanied by uplifting humanitarian rhetoric and factual justifications as well. Japan was going to establish an “earthly paradise” as it defended Manchurians from “Chinese bandits,” with the support of a leading Chinese nationalist, a far more credible figure than anyone the U.S. was able to conjure up during its attack on South Vietnam. Mussolini was liberating thousands of slaves as he carried forth the Western “civilizing mission.” Hitler announced Germany’s intention to end ethnic tensions and violence, and “safeguard the national individuality of the German and Czech peoples,” in an operation “filled with earnest desire to serve the true interests of the peoples dwelling in the area,” in accordance with their will; the Slovakian President asked Hitler to declare Slovakia a protectorate.

Another useful intellectual exercise is to compare those obscene justifications with those offered for interventions, includ-

in Turkey: it was “the year of the worst repression in the Kurdish provinces,” Jonathan Randal reported from the scene, and the year when Turkey became “the biggest single importer of American military hardware and thus the world’s largest arms purchaser. Its arsenal, 80 percent American, included M-60 tanks, F-16 fighter-bombers, Cobra gunships, and Blackhawk ‘slick’ helicopters, all of which were eventually used against the Kurds.” When human rights groups exposed Turkey’s use of U.S. jets to bomb villages, the Clinton administration found ways to evade laws requiring suspension of arms deliveries, much as it was doing in Indonesia and elsewhere. Turkish aircraft have now shifted to bombing Serbia, while Turkey is lauded for its humanitarianism.

Colombia and Turkey explain their (U.S.-supported) atrocities on grounds that they are defending their countries from the threat of terrorist guerrillas. As does the government of Yugoslavia.

Again, the example illustrates (I): act to escalate the atrocities.

(C) Laos. Every year thousands of people, mostly children and poor farmers, are killed in the Plain of Jars in Northern Laos, the scene of the heaviest bombing of civilian targets in history it appears, and arguably the most cruel: Washington’s furious assault on a poor peasant society had little to do with its wars in the region. The worst period was from 1968, when Washington was compelled to undertake negotiations (under popular and business pressure), ending the regular bombardment of North Vietnam. Kissinger-Nixon then shifted the planes to bombardment of Laos and Cambodia.

The deaths are from “bombies,” tiny anti-personnel weapons, far worse than land-mines: they are designed specifically to kill and maim, and have no effect on trucks, buildings, etc. The Plain was saturated with hundreds of millions of these criminal devices, which have a failure-to-explode rate of 20 percent to 30 percent according to the manufacturer, Honeywell. The

numbers suggest either remarkably poor quality control or a rational policy of murdering civilians by delayed action. These were only a fraction of the technology deployed, including advanced missiles to penetrate caves where families sought shelter. Current annual casualties from “bombies” are estimated from hundreds a year to “an annual nationwide casualty rate of 20,000,” more than half of them deaths, according to the veteran Asia reporter Barry Wain of the *Wall Street Journal* in its Asia edition. A conservative estimate, then, is that the crisis last year was approximately comparable to Kosovo, though deaths are far more highly concentrated among children over half, according to studies reported by the Mennonite Central Committee, which has been working there since 1977 to alleviate the continuing atrocities.

There have been efforts to publicize and deal with the humanitarian catastrophe. A British-based Mine Advisory Group (MAG) is trying to remove the lethal objects, but the U.S. is “conspicuously missing from the handful of Western organisations that have followed MAG,” the British press reports, though it has finally agreed to train some Laotian civilians. The British press also reports, with some annoyance, the allegation of MAG specialists that the U.S. refuses to provide them with “render harmless procedures” that would make their work “a lot quicker and a lot safer.” These remain a state secret, as does the whole affair in the United States. The Bangkok press reports a very similar situation in Cambodia, particularly the Eastern region where U.S. bombardment from early 1969 was most intense.

In this case, the U.S. reaction is (II): do nothing. The reaction of the media and commentators is to keep silent, following the norms under which the war against Laos was designated a “secret war” meaning well-known, but suppressed, as also in the case of Cambodia from March 1969. The level of self-censorship was extraordinary then, as is the current phase. The

relevance of this shocking example should be obvious without further comment.

President Clinton explained to the nation that “there are times when looking away simply is not an option”; “we can’t respond to every tragedy in every corner of the world,” but that doesn’t mean that “we should do nothing for no one.” But the President, and commentators, failed to add that the “times” are well-defined. The principle applies to “humanitarian crises,” in the technical sense discussed earlier: when the interests of rich and privileged people are endangered. Accordingly, the examples just mentioned do not qualify as “humanitarian crises,” so looking away and not responding are definitely options, if not obligatory. On similar grounds, Clinton’s policies on Africa are understood by Western diplomats to be “leaving Africa to solve its own crises.” For example, in the Republic of Congo, scene of a major war and huge atrocities; here Clinton refused a UN request for a trivial sum for a battalion of peacekeepers, according to the UN’s senior Africa envoy, the highly respected diplomat Mohamed Sahnoun, a refusal that “torpedoed” the UN proposal. In the case of Sierra Leone, “Washington dragged out discussions on a British proposal to deploy peacekeepers” in 1997, paving the way for another major disaster, but also of the kind for which “looking away” is the preferred option. In other cases too, “the United States has actively thwarted efforts by the United Nations to take on peacekeeping operations that might have prevented some of Africa’s wars, according to European and UN diplomats,” correspondent Colum Lynch reported as the plans to bomb Serbia were reaching their final stages.

I will skip other examples of (I) and (II), which abound, and also contemporary atrocities of a different kind, such as the slaughter of Iraqi civilians by means of a vicious form of what amounts to biological warfare “a very hard choice,” Madeleine Albright commented on national TV in 1996 when asked for her reaction to the killing of half a million Iraqi children in five